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FILED
 JUL 11 2011
 RICHARD W. WIEKING
 CLERK, U.S. DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA *ex rel.*,)
 John C. Prather, *et al.*,)

Plaintiff,)

v.)

AT & T INC., CELLCO PARTNERSHIP)
 d/b/a VERIZON COMMUNICATIONS,)
 QWEST COMMUNICATIONS)
 INTERNATIONAL INC., SPRINT)
 NEXTEL CORP., and TELEPHONE AND)
 DATA SYSTEMS, INC.,)

Defendants.)

No. C 09-2457-BZ

**UNITED STATES' NOTICE OF ELECTION
 NOT TO INTERVENE AT THIS TIME;
 [PROPOSED] ORDER**

FILED UNDER SEAL

Pursuant to the False Claims Act, 31 U.S.C. § 3730(b)(4)(B), the United States hereby notifies the Court that it is not intervening in this action at this time. On June 20, 2011, the Court extended the deadline for the United States to make its election concerning intervention to July 8, 2011. The United States is unable to complete its election within the time allowed by the Court. Accordingly, the United States respectfully notifies the Court that it is not intervening in this civil action at this time.

Although the United States is not now intervening in this action, we respectfully refer the Court to 31 U.S.C. § 3730(b)(1), which allows a relator to bring an action in the name of the

NOTICE OF ELECTION TO DECLINE INTERVENTION; [PROPOSED] ORDER
 C-08-2457-BZ

[PROPOSED] ORDER

1. All sealed contents of the Court's file in this action shall remain under seal and not be made public or served upon the defendant, except for the Complaint, this Order, and the accompanying United States' Notice of Election Not to Intervene at This Time, which are hereby unsealed.

2. Unless the relators voluntarily dismiss this action pursuant to Rule 41(a) of the Federal Rules of Civil Procedure, they shall serve the Complaint, this Order and the accompanying Notice of Election Not to Intervene at This Time upon the defendant.

3. The seal is lifted as to all matters occurring in this action after the date of this Order.

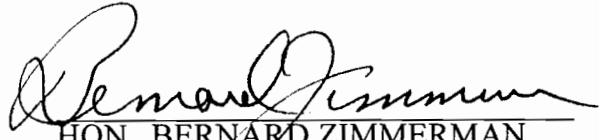
4. The parties shall serve all pleadings and motions filed in this action, including supporting memoranda, upon the United States, as provided for in 31 U.S.C. § 3730(c)(3). The United States may order any deposition transcripts and is entitled to intervene in this action, for good cause, at any time.

5. All orders of this Court shall be sent to the United States.

6. Should the relators or the defendants propose that this action be dismissed, settled, or otherwise discontinued, the Court will provide the United States with notice and an opportunity to be heard before ruling or granting its approval.

IT IS SO ORDERED.

DATED: 11 July '11


HON. BERNARD ZIMMERMAN
United States Magistrate Judge

1 United States; providing, however, that the “action may be dismissed only if the court and the
2 Attorney General give written consent to the dismissal and their reasons for consenting.” Id. The
3 United States Court of Appeals for the Ninth Circuit has held that, notwithstanding this language,
4 the United States only has the right to a hearing when it objects to a settlement or dismissal of the
5 action. U.S. ex rel. Green v. Northrop Corp., 59 F.3d 953, 959 (9th Cir. 1995); U.S. ex rel.
6 Killingsworth v. Northrop Corp., 25 F.3d 715, 723-25 (9th Cir. 1994).

7 Therefore, the United States requests that, should either the relators or the defendants propose
8 that this action be dismissed, settled, or otherwise discontinued, this Court provide the United
9 States with notice and an opportunity to be heard before ruling or granting its approval.

10 Furthermore, pursuant to 31 U.S.C. § 3730(c)(3), the United States requests that all pleadings
11 filed in this action be served upon the United States. The United States also requests that orders
12 issued by the Court be sent to the Government's counsel. The United States reserves its rights to
13 order any deposition transcripts, and to intervene in this action, for good cause, at a later date. The
14 United States also reserves its right to move to dismiss the action pursuant to 31 U.S.C. §
15 3730(c)(2)(A).


16 Finally, the United States requests that the applications and stipulations filed by the United
17 States with the Court during the seal period remain under seal and not be made public or served
18 upon the defendant.

19 A proposed order accompanies this notice.

20 DATED: July 8, 2011

Respectfully submitted,

21 MELINDA HAAG
22 United States Attorney

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24 STEVEN J. SALTIEL
25 Assistant United States Attorney
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